

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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E.F., on behalf of himself and his minor child, O.F.; J.R. on behalf of herself and her minor child, K.R.; J.F., on behalf of himself and his minor child, H.F.; L.V., on behalf of herself and her minor child, N.F.; M.S. on behalf of himself and his minor children, J.S.; and Q.S., and all other similarly situated,

Plaintiffs,

- against -

MAYOR ERIC ADAMS, in his Official Capacity; THE CITY OF NEW YORK, CHANCELLOR DAVID BANKS, in his Official Capacity; NEW YORK CITY DEPARTMENT OF EDUCATION; NEW YORK CITY BOARD OF EDUCATION; COMMISSIONER BETTY ROSA, in her Official Capacity; NEW YORK STATE EDUCATION DEPARTMENT; COMMISSIONER JONI KLETTER, in her Official Capacity; THE OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS,

Defendants.

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21 CV 11150 (ALC) (SN)

**DECLARATION OF  
NEAL SOLON**

**NEAL SOLON**, under penalty of perjury, declares pursuant to 28 U.S.C. § 1746, that the following statements are true and correct:

1. I am a Managing Attorney in the Special Education Unit within the Office of the General Counsel at the New York City Department of Education, one of the Defendants in the case captioned above. I submit this declaration in opposition to Plaintiffs' motion for a preliminary injunction.

2. This declaration is based on my personal knowledge, my review of Department of Education records, and conversations with other Department of Education employees and employees of the Office of Administrative Trials and Hearings.

3. The student O.F. does not presently have a due process complaint pending. A due process complaint was previously filed concerning O.F. and the 2021-2022 school year and a hearing decision concerning that school year (and the 2020-2021 school year) was issued on or about October 28, 2021.

4. The student K.R. presently has a hearing pending concerning the 2021-2022 school year. A hearing officer was appointed on or about December 17, 2021. An initial appearance was scheduled for January 26, 2022. The next appearance is scheduled for March 9, 2022. The student is receiving private school tuition pursuant to pendency.

5. The student H.F. has a hearing pending concerning the 2020-2021 school year (the parent has not filed a due process complaint concerning the 2021-2022 school year). A hearing officer was appointed on or about October 29, 2021 and there have been five scheduled dates, including one this week. A pendency order was issued on October 28, 2021 addressing private school tuition, special education teacher support services, and occupational therapy during the pendency of the proceeding.

6. The student N.F. has two pending due process complaints, one regarding the 2021-2022 school year and one regarding multiple, prior school years. For the complaint regarding the 2021-2022 school year, a hearing officer was appointed on November 1, 2021, and there have been four appearances thus far. The next appearance is scheduled for February 17, 2022. For the case regarding prior school years, a hearing officer was assigned on March 1, 2021. A pendency order was issued on or about November 28, 2021 addressing private school tuition and transportation costs during the pendency of the 2021-2022 proceeding.

7. The student J.S. has a hearing pending concerning the 2021-2022 school year. A hearing officer was appointed on September 21, 2021, and there have been two

appearances thus far. On information and belief, there has been no pendency hearing and no pendency order has issued because there is no dispute about the student's entitlement to private school tuition and transportation during the pendency of the proceeding.

8. The student Q.S. has a hearing pending concerning the 2021-2022 school year. A hearing officer was appointed on September 22, 2021, and there have been two appearances thus far, with a third scheduled for February 10, 2022. On information and belief, there has been no pendency hearing and no pendency order has issued because there is no dispute about the student's entitlement to private school tuition during the pendency of the proceeding.

9. I am told that none of the hearing officers assigned to the five pending cases have been offered a position with the Office of Administrative Trials and Hearings ("OATH"). Thus, there is no reason to believe that any of the pending cases will be transferred to the OATH at any time in the foreseeable future.

10. As set forth in City Defendants' memorandum of law in opposition to Plaintiffs' application, the Court should deny Plaintiffs' application for preliminary injunctive relief in its entirety.

Dated: February 2, 2022  
New York, New York



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Neal Solon, Esq.